

## “PUBLIC FUNDS EQUAL PUBLIC BENEFITS”

### Strategies for Prevention of Discrimination (Text Only)

#### Learning Objectives

- Explain strategies to be proactive in the prevention of discrimination

#### INTRODUCTION

Although it is great to have Title VI legislation in place as a measure to protect US residents from discrimination based on specific, personally identifiable characteristics, more important is the practice of preventing discrimination before it is manifested. Agencies receiving federal funds are strongly encouraged to have strategies in place not only to *address* the prevention of discriminatory practices, these same agencies and STAs are encouraged to *exhibit* proactive behavior and implement proactive programs that focus on discriminatory practices.

#### PROACTIVE STRATEGIES FOR DISCRIMINATION PREVENTION

Because each agency has different responsibilities and organizational characteristics, what works as strategic methods of prevention within one agency may not necessarily be as effective in a differing agency. However, there are some strategies that have been identified through the FHWA's Title VI program that have been deemed “best practices” for addressing the prevention of discriminatory behaviors, applicable to the recipients and subrecipients of federal funds via the DOT's FHWA.

The following is a list of FHWA program-specific discrimination mitigation strategies, that when practiced, have proven effective and *proactive* in reducing discriminatory practices toward the recipients and subrecipients of federal funds:

- (1) Agencies should consider the implementation of a **systematic, multidisciplinary approach**. By employing such an approach, issues that are identified “early” within an agency may be adequately and properly addressed. Additionally a systematic approach demonstrates the agency's commitment to treating each case uniformly, without bias. The prescription or enactment of several levels of discipline also demonstrate the agency's seriousness to creating programs, providing services, and creating activities that are readily available to all.
- (2) By collecting and maintaining proper, current, and **accurate data** at all times, an agency may save itself a considerable amount of trouble, as in the instance complaints or grievances do arise, recipients and subrecipients would have data that proves their efforts in protecting the community's interests. Such data may prove the agency's commitment to improving conditions or addressing problem areas, to the surprise of a potential complainant. With the specific and proper identification of data such as:

- Surrounding populations and communities
- Target audience to receive project-related information
- Sources of input
- Beneficiaries of the project, upon completion, and
- Exclusions,

potential complainants, are more likely to feel “at ease” seeing that actions have been taken and data collected to address internally recognized and documented issues. This serves as an excellent source of proof that the recipient or subrecipient is aware of their responsibilities regarding Title VI, and is making a sincere effort to maintain fair, equitable practices throughout the lifecycle of a transportation project.

- (3) Agencies should also develop applicable and/or appropriate strategies that allow the **public to become involved** at all phases of a project. Involving the public provides the community with the sense that federally funded agencies are concerned with how their projects and plans directly affect the community. Additionally, the public may become more educated and aware of what an agency is doing to protect the public’s rights with regard to Title VI. By allowing the public involvement during all project activities in a systematic and ongoing manner, Federal-aid recipients and subrecipients can quickly identify and resolve potential issues instead of waiting until a project reaches a critical phase where the budgetary constraints and environmental effects are more costly and potentially more harmful to the overall success of a project.
- (4) By **creating a trusting and respectful atmosphere**, potential complainants are less likely to have as many grievances or point out as many issues they potentially see within an organization. As a matter of fact, such an atmosphere is likely to discourage individuals from complaining as much. Rather, these individuals may feel more comfortable voicing an issue at a lower level of administration and are more likely to feel confident that enforcement of specific measures and procedures to mitigate the issues described will take place. With the elements of trust and respect in place, US residents become more encouraged that they will experience fewer issues than if these elements were absent.
- (5) Agencies should seek to **empower the community, providing them a “say-so” in the development of plans that may directly (or indirectly) affect their community**. By giving the community an opportunity to speak and raise issues or have questions answered, there is a smaller likelihood that residents would complain when a project becomes more involved and where addressing issues is more complicated.
- (6) Very similar to creating a trusting and respectful atmosphere, establishing a **two-way line of communication with the public** demonstrates a sense of caring and responsibility. By allowing the public a continuous way for them to express concerns and contribute their ideas, there are more opportunities to solve issues before they are escalated to reach the headquarters office of civil rights. In this instance agencies are made aware of Title VI-related questions and issues and the public becomes more confident that the agency will put forth the effort to almost immediately address their specific concerns.

- (7) A very important proactive strategy for preventing discrimination lies in the exercise of conducting **periodic reviews** and **evaluations**. When an agency reviews and evaluates their policy, procedures, staff, programs, services, activities, etc., they are on the “front end” of any potential problems that may arise. Now, an agency may not always catch every little possible issue. However, conducting these reviews provides agency officials with a more adequate idea of where potential problems may arise, thereby reducing the time between discovery and the development and implementation of a plausible solution.
- (8) It was mentioned earlier in this presentation, but it serves as a valuable point to remind agencies of the importance of **collecting and maintaining accurate documentation**. Whenever potential complaints arise, agencies should document the issue. When agencies determine a course of action to correct issues or complaints, the agency should document the plan. When in doubt about a Title VI-related issue or topic...document, document, document. This becomes a valuable tool in the instance detailed complaints do arise, as the agency may bear the burden of defending its position regarding why their procedures are as they are or why staff responds in specific situations in a certain manner. Factual, accurate documentation is typically more powerful than agencies are aware, and may mean the difference between peacefully settling a dispute or paying out large sums of money to compensate a complainant wronged when treated unfairly per Title VI.
- (9) Finally, although seemingly obvious, **training** is sometimes overlooked as a measure that could mean the difference between awareness and ignorance, or between fairness and discrimination. By implementing adequate and informative training during a project, recipients and subrecipients are acting to mitigate discrimination before it takes place. Training provided to resources responsible for completing a project is just as important as training that educates the public, as all training participants should learn and understand the actions that are deemed discriminatory versus those actions that are deemed compliant with the law. Because full compliance is necessary for the successful execution of a transportation project, the implementation of training and education is highly recommended for inclusion in any project plan.

The discussion could continue, indefinitely, regarding other strategic methods for mitigating or preventing discrimination during the phases of a transportation change project. However, for additional details, please refer to the FHWA's published *Title VI Considerations in the Federal aid Highway Program*.